

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

PATRICK RYAN MCGINNIS
150 Cedar Street
Rio Dell, CA 95562

Registered Nurse License No. 729467

Respondent

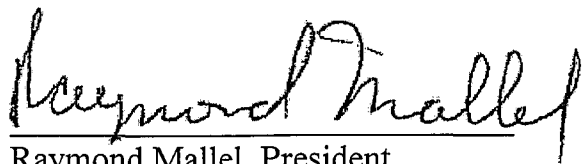
Case No. 2013-189

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on **December 26, 2012.**

IT IS SO ORDERED **December 26, 2012.**



Raymond Mallel, President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JUDITH J. LOACH
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7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-189

13 **PATRICK RYAN MCGINNIS**
14 **150 Cedar Street**
Rio Dell, CA 95562
Registered Nurse License No. 729467

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

15 Respondent.

16 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
17 proceeding that the following matters are true:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") is the Executive Officer of the Board
20 of Registered Nursing. She brought this action solely in her official capacity and is represented in
21 this matter by Kamala D. Harris, Attorney General of the State of California, by Judith J. Loach,
22 Deputy Attorney General.

23 2. Patrick Ryan McGinnis ("Respondent") is representing himself in this proceeding and
24 has chosen not to exercise his right to be represented by counsel.

25 3. On or about June 30, 2008, the Board of Registered Nursing issued Registered Nurse
26 License No. 729467 to Patrick Ryan McGinnis (Respondent). The Registered Nurse License was
27 in full force and effect at all times relevant to the charges brought in Accusation No. 2013-189
28 and will expire on July 31, 2014, and has not been renewed.

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1 Registered Nursing may communicate directly with the Board regarding this stipulation and
2 surrender, without notice to or participation by Respondent. By signing the stipulation,
3 Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the
4 stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this
5 stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of
6 no force or effect, except for this paragraph, it shall be inadmissible in any legal action between
7 the parties, and the Board shall not be disqualified from further action by having considered this
8 matter.

9 11. The parties understand and agree that facsimile copies of this Stipulated Surrender of
10 License and Order, including facsimile signatures thereto, shall have the same force and effect as
11 the originals.

12 12. This Stipulated Surrender of License and Order is intended by the parties to be an
13 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
14 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
15 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order
16 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing
17 executed by an authorized representative of each of the parties.

18 13. In consideration of the foregoing admissions and stipulations, the parties agree that
19 the Board may, without further notice or formal proceeding, issue and enter the following Order:

20 **ORDER**

21 IT IS HEREBY ORDERED that Registered Nurse License No. 729467, issued to
22 Respondent Patrick Ryan McGinnis, is surrendered and accepted by the Board of Registered
23 Nursing.

24 1. Respondent shall lose all rights and privileges as a Registered Nurse in California as
25 of the effective date of the Board's Decision and Order.

26 2. Respondent shall cause to be delivered to the Board his pocket license and, if one was
27 issued, his wall certificate on or before the effective date of the Decision and Order.

3. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 2013-189 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

4. If and when Respondent's license is reinstated, he shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of \$3,045.00. Respondent shall be permitted to pay these costs in a payment plan approved by the Board. Nothing in this provision shall be construed to prohibit the Board from reducing the amount of cost recovery upon reinstatement of the license.

5. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. 2013-189 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

6. Respondent shall not apply for licensure or petition for reinstatement for two (2) years from the effective date of the Board of Registered Nursing's Decision and Order.

ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED:

10-20-12

Patrick R. McGinnis
PATRICK RYAN MCGINNIS
Respondent

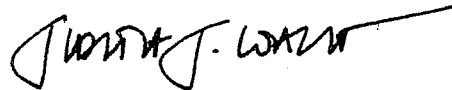
ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

Dated: 10/22/2012

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
FRANK H. PACOE
Supervising Deputy Attorney General



JUDITH J. LOACH
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 2013-189

1 KAMALA D. HARRIS
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2 FRANK H. PACOE
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3 JUDITH J. LOACH
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7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. *2013-189*

13 **PATRICK RYAN MCGINNIS**
14 **150 Cedar Street**
15 **Rio Dell, CA 95562**

ACCUSATION

16 **Registered Nurse License No. 729467**

17 Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about June 30, 2008, the Board of Registered Nursing issued Registered Nurse
24 License Number 729467 to Patrick Ryan McGinnis ("Respondent"). The Registered Nurse
25 License was in full force and effect at all times relevant to the charges brought herein and will
26 expire on July 31, 2014, unless renewed.

27 **JURISDICTION**

28 3. This Accusation is brought before the Board of Registered Nursing ("Board"),
Department of Consumer Affairs, under the authority of the following laws. All section

1 references are to the Business and Professions Code unless otherwise indicated.

2 4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent
3 part, that the Board may discipline any licensee, including a licensee holding a temporary or an
4 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the
5 Nursing Practice Act.

6 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
7 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
8 licensee or to render a decision imposing discipline on the license.

9 6. Section 118, subdivision (b), of the Code provides that the
10 suspension/expiration/surrender/cancellation of a license shall not deprive the Board of
11 jurisdiction to proceed with a disciplinary action during the period within which the license may
12 be renewed, restored, reissued or reinstated.

13 DISCIPLINARY STATUTES AND REGULATIONS

14 7. Section 2761 of the Code states:

15 "The board may take disciplinary action against a certified or licensed nurse or deny an
16 application for a certificate or license for any of the following:

17 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

18 ...

19 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
20 functions, and duties of a registered nurse, in which event the record of the conviction shall be
21 conclusive evidence thereof.

22 ..."

23 8. Section 2762 of the Code states:

24 "In addition to other acts constituting unprofessional conduct within the meaning of this
25 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
26 chapter to do any of the following:

27 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed
28 physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or

1 administer to another, any controlled substance as defined in Division 10 (commencing with
2 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
3 defined in Section 4022.

4 "(b) Use any controlled substance as defined in Division 10 (commencing with Section
5 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
6 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
7 himself or herself, any other person, or the public or to the extent that such use impairs his or her
8 ability to conduct with safety to the public the practice authorized by his or her license.

9 "(c) Be convicted of a criminal offense involving the prescription, consumption, or
10 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
11 or the possession of, or falsification of a record pertaining to, the substances described in
12 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
13 thereof.

14 ..."

15 9. Section 490 of the Code provides, in pertinent part, that a board may suspend or
16 revoke a license on the ground that the licensee has been convicted of a crime substantially
17 related to the qualifications, functions, or duties of the business or profession for which the
18 license was issued.

19 10. Code section 4022 states:

20 "Dangerous drug" or "dangerous device" means any drug or device unsafe for self-
21 use in humans or animals, and includes the following:

22 (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without
prescription," "Rx only," or words of similar import.

23 (b) Any device that bears the statement: "Caution: federal law restricts this device to
24 sale by or on the order of a -----," "Rx only," or words of similar import, the blank
25 to be filled in with the designation of the practitioner licensed to use or order use of
the device.

26 (c) Any other drug or device that by federal or state law can be lawfully dispensed
27 only on prescription or furnished pursuant to Section 4006.
28

11. Code section 4060 states, in pertinent part:

No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052 . . .

COST RECOVERY

12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Criminal Conviction)

13. Respondent is subject to disciplinary action under sections 2761, subdivisions (a) and (f), 2762, subdivision (c) and/or 490 in that on or about May 22, 2012, in a criminal proceeding entitled *The People of the State of California v. Patrick Ryan McGinnis*, Humboldt County Superior Court, Case No. CR 1200288, Respondent was convicted by his plea of guilty to a felony violation of Health and Safety Code section 11350(a) [possession of a controlled substance – heroin¹]. Respondent was placed on probation pursuant to Prop 36 (Penal Code section 1210 et seq.) and ordered to register as a Drug Offender in Humboldt County.

The facts in support of this conviction are that on January 18, 2012, the Eureka Police Department was dispatched to a parking lot on report of an individual sitting in a vehicle using a hypodermic syringe. On arrival at the scene, Respondent was observed sitting in his vehicle, wearing hospital scrubs, injecting his left forearm with a hypodermic syringe. Respondent admitted that he was injecting heroin. Also, found within his vehicle were drug paraphernalia (hypodermic syringes, lighter, soda can fashioned into a heater for cooking heroin) as well as a small envelope containing “black tar” heroin.

¹ Heroin is a Schedule I controlled substance pursuant to Health and Safety Code section 11054 (c) (11). It is also considered a dangerous drug pursuant to Code section 4022.

1 SECOND CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct – Possession of Controlled Substance)

3 14. Respondent is subject to disciplinary action under sections 2761, subdivision (a) and
4 2762, subdivision (a) for unprofessional conduct in that he was in possession of a controlled
5 substance, heroin as set forth above in paragraph 13.

6 THIRD CAUSE FOR DISCIPLINE

7 (Unprofessional Conduct – Use of Controlled Substances)

8 15. Respondent is subject to disciplinary action under sections 2761, subdivision (a) and
9 2762, subdivision (b) for unprofessional conduct in that he had used and was under the influence
10 of controlled substances. The facts in support of this cause for discipline are as follows:

11 a. On January 18, 2012, Respondent admitted that he injected heroin, as set forth above
12 in paragraph 13.

13 b. On or about March 23, 2012, Respondent was arrested by the California Highway
14 Patrol for driving while under the influence of drugs pursuant to Vehicle Code section 23152(a).
15 Respondent was first observed to be standing next to his vehicle that was parked on the shoulder
16 of U.S. 101 in Humboldt County. He was stumbling, had slow/slurred speech and pinpoint sized
17 pupils. Respondent failed field sobriety testing at the scene. He was found to have a used syringe
18 in his right breast pocket. Urine testing on June 12, 2012 was positive for Benzodiazepines,²
19 Marijuana³ and Opiates.⁴

20 ///

21 ///

22 _____
23 ² Benzodiazepines are a class of medications used for the treatment of anxiety and
24 insomnia having sedative effects. They are classified as Schedule IV controlled substances
pursuant to Health and Safety Code section 11057.

25 ³ Marijuana is classified as a Schedule I controlled substance pursuant to Health and
26 Safety Code section 11054 (d) (13) and is a dangerous drug pursuant to Code section 4022.

27 ⁴ Opiates can be classified as a Schedule I controlled substance pursuant to Health and
28 Safety Code section 11054, or a Schedule IV controlled substance pursuant to Health and Safety
Code section 11057. Opiates are considered to be dangerous drugs pursuant to Code section 4022.

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PUBLIC DEFENDER

KAMALA D. HARRIS
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FRANK H. PACOE
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*Attorneys for Complainant
Board of Registered Nursing,
Department of Consumer Affairs*

FILED

AUG 29 2012

SUPERIOR COURT OF CALIFORNIA
COUNTY OF HUMBOLDT

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF HUMBOLDT**

**THE PEOPLE OF THE STATE OF
CALIFORNIA**

PLAINTIFF,

v.

PATRICK RYAN MCGINNIS

DEFENDANT.

Case No. CR 1203024

**STIPULATION AND ~~PROPOSED~~
ORDER SUSPENDING DEFENDANT'S
REGISTERED NURSING LICENSE**

Date: August 29, 2012

Time: 10:00 a.m.

Ctroom: 3

Commissioner Michael P. Eannarino

The parties to the Stipulation are Defendant Patrick Ryan McGinnis ("Defendant"), through his counsel L. Andy Truitt and Louise R. Bailey, in her official capacity as the Executive Officer for the Board of Registered Nursing, Department of Consumer Affairs, acting by and through Deputy Attorney General Judith J. Loach.

RECITALS

1. On or about July 11, 2012, Humboldt County District Attorney executed a criminal complaint against Defendant in the above-entitled court. Defendant with charged with a misdemeanor violation of Vehicle Code section 23152(a) [driving while under the influence of drugs], with prior convictions for violations of Vehicle Code sections 23540 and 23546.

2. Defendant McGinnis was issued a license to practice as a Registered Nurse (License Number 729467), by the Board of Registered Nursing on or about June 30, 2008. Said license expired on July 31, 2012, and has not been renewed.

3. On or about April 12, 2012, the Board was notified that the Defendant was arrested by the California Highway Patrol on March 23, 2012, in Humboldt County. Counsel for the Board of Registered Nursing obtained a copy of the criminal complaint executed against Defendant from the Humboldt County District Attorney's Office on August 17, 2012.

4. On August 20, 2012, the Board of Registered Nursing filed a Notice of Appearance and Recommendation by State Licensing Agency for Suspension of Defendant's Registered Nurse License, pursuant to Penal Code section 23 and Business and Professions Code section 320. This matter is set for hearing on August 29, 2012, at 10:00 a.m., in Courtroom 3 of the above-entitled court.

STIPULATION

5. Defendant McGinnis has agreed that during the pending criminal matter and/or until the conclusion of disciplinary proceedings to be filed by the Board of Registered Nursing, he will cease practice as a Registered Nurse.

6. Defendant McGinnis has further agreed that during the pending criminal action and/or until the conclusion of disciplinary proceedings to be filed by the Board of Registered Nursing, he will immediately surrender to the Board's counsel any and all indicia of his licensure as a Registered Nurse, including his pocket license and if issued any and all wall certificates.

IT IS SO STIPULATED.

Dated: 8/29/12

By: Patrick R. McGinnis

PATRICK RYAN MCGINNIS

Dated: 8/29/12

By: Andy Truitt

ANDY TRUITT

Counsel for Defendant McGinnis

1 Dated: _____

By: See next page

JUDITH J. LOACH

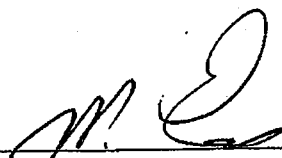
Deputy Attorney General

Counsel for Board of Registered

Nursing, Department of Consumer
Affairs

6 IT IS SO ORDERED.

8 Dated: 8/29/12

By: 
COMM. MICHAEL P. EANNARINO
Humboldt County Superior Court

AUG/29/2012/WED 10:28 AM CA. DEPT. OF JUSTICE

FAX No. 415 703 5333

P. 002

Dated:

August 29, 2012

By:

JUDITH J. LOACH

JUDITH J. LOACH

Deputy Attorney General
Counsel for Board of Registered
Nursing, Department of Consumer
Affairs

IT IS SO ORDERED.

Dated: _____

By:

See previous PageCOMM. MICHAEL P. EANNARINO
Humboldt County Superior Court

84

FAX TRANSMISSION

SUPERIOR COURT OF CALIFORNIA**COUNTY OF HUMBOLDT**

825 5th Street
Eureka California, 95501
(707) 269-1200
Fax: (707) 445-7041

To: Judith Loach**Date:** August 29, 2012**Fax #:** (415) 703-5480**Pages:** 5 Pages (including cover sheet)**From:** Laurel Becnel, Courtroom Clerk**Subject:** CR1203024 Patrick Ryan McGinnis**COMMENTS:**

Attached is the Stipulation and Order Suspending Defendant's Registered Nursing License. I will be mailing a certified copy to your office today.